

NEWS BULLETIN

Maine Automobile Dealers Association

180 Civic Center Drive P. O. Box 2667 Augusta, Maine 04338-2667 DIAL 623-3882
e-mail:info@maineautodealers.com FAX 623-2318

2021-9

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COVID-19 RULES REVISED ???

Have the federal and state rules regarding COVID-19 and business operations changed? What about sales staff and demo rides? Can we expand shuttle service? Do CDC and OSHA rules coincide?

These and other COVID-19 related questions have become more frequent lately. So, what are the current rules? Rule #1 – a business can establish its own rules, for both customers and employees.

Both federal and state guidelines have removed the “mandatory” mask-wearing rule, with a notable caution and suggestion. That caution distinguishes the vaccinated from the unvaccinated. Businesses can decide for themselves whether or not to begin asking customers, and their employees, if the person has been vaccinated, and establish a procedure for everyone to follow. First, there is Rule #1. Next, a suggestion (not a requirement) would be to have employees wear a mask if that employee is working with a customer who is wearing a mask. A business is allowed to post a sign suggesting that unvaccinated individuals wear a mask.

Demo rides with a dealership employee in the vehicle with a customer are allowed. It is suggested that the number of people in the vehicle be limited, and that the dealership employee wear a mask, given an uncertain vaccination status and the potential issues if someone gets sick.

Shuttle service is allowed, Once again, it is suggested that there be limited passengers, that adequate spacing of multiple passengers be observed, and that the dealership driver wear a mask.

OSHA has announced its current views, and a copy of the major points in their guidance is enclosed with this Bulletin.

To summarize the situation, it seems reasonable to say that while the guidelines are significantly relaxed, **CAUTION** is the word. A business can establish its own approach (RULE #1), but it must be consistently applied.

MAINE TAX FILINGS

Maine Revenue Services has recently announced changes to future tax filing procedures. A copy of that mailing has been included with this Bulletin. Since “Corporate Income Tax” will apparently be one of the first types of taxes to be filed under the revised system, dealerships should become familiar with this Maine Revenue Services implementation.

TEMPORARY PLATE PERIOD TO CHANGE

The Maine Legislature has enacted, and Governor Mills has signed, a MADA – initiated proposal to change the 14-day temporary plate timeframe to a 30-day period. The change becomes effective in late September – we will notify you of the exact date once the Legislature finishes its Special Sessions.

MADA was made aware that some municipal offices had told vehicle purchasers that the law changed June 8 – this is **NOT CORRECT**. The law was signed by the Governor on that date, but does not become effective until 90 days after adjournment of the Legislative Session. MADA and the Bureau of Motor Vehicles will be notifying dealerships of the appropriate effective date.

LEASES

As the value of used vehicles, especially later model year vehicles, has exploded, there has been a number of dealership inquiries as well as a conversation with the Sales Tax Division of Maine Revenue Services. The topic in this current discussion is the additional value of the vehicle over and above the residual value – the so-called “equity” above residual value.

The first fact in this situation is that the lessee (the customer) is NOT the owner of the leased vehicle – the leasing company is the owner. The only way that the lessee can utilize the “equity” is to purchase the vehicle in the lessee’s own name, then trade-in the vehicle against the next vehicle.

In the case of a lessee purchase of the leased vehicle, Maine Revenue Service states that sales tax applies to “the full sale price at the time of the sale even though some amount of the early buyout value of the vehicle was technically calculated in the value of the lease and previously taxed”.

If that customer then leases another vehicle, and trades-in the first vehicle (which the person has purchased and paid sales tax, and is now considered the owner – see previous paragraph), Maine sales tax applies in the usual manner for leases – trade-in credit is not allowed. Sales tax is computed on the total of lease payments plus trade-in equity plus cash down.

If the customer then purchases another vehicle, a trade-in credit is allowed against the full purchase price, and Maine sales tax payable would be reduced.

FUTURE MEMBERSHIP EVENTS

Your Association has begun planning membership events for the remainder of 2021. The following is the current outline, with future News Bulletins and mailings providing details and registration information.

September 9 – Membership Golf Tourney – Martindale CC, Auburn
October 6 – Annual Membership Meeting & Workshops – Augusta Civic Center
October 18 to 21 – Regional Personnel Law and Benefits Administration Workshops
November 8 to 17 – Regional Membership Meetings

During the coming months, the three dealer Boards which govern the Association, the MADA Insurance Trust (employee benefits), and the MADA Workers Compensation Trust will be meeting to work on issues affecting dealership operations, Legislative and Regulatory obligations, and plans for 2022.

MADA Directors, Trustees and staff look forward to working with all of the membership at these various events. Plan now to attend and participate in these workshops and discussions.

The Latest from OSHA on Mitigating and Preventing the Spread of COVID-19 at Work

On the tails of updated guidance from other agencies, the U.S. Department of Labor Occupational Safety and Health Administration ("OSHA") released new pandemic-related guidance last month. This guidance was issued on June 10, 2021 and focuses on protections for unvaccinated and at-risk workers and encouraging COVID-19 vaccination.

Here's what employers should know:

1. **OSHA Reiterates CDC's Interim Recommendations for Fully Vaccinated People.**

Based on the U.S. CDC's Interim Public Health Recommendations for Fully Vaccinated people, which was issued on May 28, 2021, OSHA states that most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at risk from COVID-19 exposure (unless otherwise required to do so by federal, state, local, or other applicable laws, rules, or regulations). "At-Risk" workers includes workers who have had transplant surgery or use immune-weakening medications.

CDC advised in its updated guidance that most fully vaccinated people can resume activities without wearing a mask or physically distancing, except where they are required to do so by federal, state, and local laws and regulations or rules imposed by businesses and workplaces. The exception is that some additional protections may be required for people who are fully vaccinated but still at-risk due to immunocompromising conditions. Further, CDC continues to recommend precautions for workers in certain transportation settings.

2. **Many Healthcare Workplaces Will Be Covered by the Mandatory OSHA COVID-19 Emergency Temporary Standard.**

The June 10 guidance addresses workplaces *not* subject to the Mandatory OSHA COVID-19 Emergency Temporary Standard. This Emergency Temporary Standard ("ETS") became effective on June 21, 2021 and applies to all settings where employees provide healthcare services or healthcare support services subject to some exceptions. Unlike the new ETS, the June 10 guidance is not a standard or regulation and does not create new legal obligations. Rather, the guidance contains recommendations that are advisory in nature and intended to assist employers in recognizing hazards in the workplace and identifying means to abate them.

3. **OSHA Distinguishes Between Workplaces Where All Employees Are Vaccinated and Workplaces Where There Are Unvaccinated or At-Risk Workers.**

Except for workplaces covered by the above-described mandatory ETS and mask requirements that apply in the public transportation industry, OSHA states that most employers no longer need to take steps to protect workers from COVID-19 exposure where all workers are fully vaccinated. Steps should be taken, however, to protect unvaccinated or otherwise at-risk workers.

In workplaces where there are unvaccinated workers or workers who are otherwise at-risk, OSHA recommends that employers implement "multi-layered interventions" to protect those workers and mitigate the spread of COVID-19. Suggested interventions include the following:

- **Grant paid time off for employees to get vaccinated.** Keep in mind that some businesses may be eligible for tax credits if they provide paid time off for employees who decide to receive the vaccine and to recover from potential side effects.
- **Instruct workers who are infected, unvaccinated workers who have had close contact with someone who tested positive, and all workers with COVID-19 symptoms to stay home from work.** Such absences should be encouraged and non-punitive. Policies that encourage workers to show up when they are sick or after they have been exposed (if unvaccinated) should be eliminated or

revised. Some businesses may be eligible for refundable tax credits if they provide time off for sick and family leave due to COVID-19.

- **Implement physical distancing for unvaccinated or otherwise at-risk personnel in all communal work areas.** Pre-vaccine approaches for minimizing contact between employees can be used to protect unvaccinated or otherwise at-risk workers. Examples include administrative or engineering controls such as barriers to eliminate face-to-face pathways between individuals, modified workspaces to promote physical distancing, telework or other flexible work policies, staggered or rotating shifts, and video or telephone conferencing in lieu of in-person meetings.
- **Provide unvaccinated and otherwise at-risk workers with face coverings or surgical masks unless their work tasks require a respirator or other PPE.** OSHA states that face coverings should be provided at no cost to unvaccinated and at-risk workers. Unvaccinated workers who are outdoors may opt not to wear face coverings unless they are at-risk. All personnel should be supported in continuing to use face coverings if they choose to do so. Keep in mind that under anti-discrimination laws, employers may need to provide reasonable accommodations for any worker who is unable to wear a mask or has difficulty with a certain type of face covering due to disability or religion.
- **Educate and train workers on COVID-19 policies and procedures.** Ensure that managers are familiar with COVID-19 procedures and that communications regarding policies and trainings are in an accessible format and a language that all employees can understand. Trainings should include: (1) basic facts about COVID-19, how it is spread, and the importance of physical distancing, ventilation, vaccination, use of face coverings, and hand hygiene; and (2) workplace policies and procedures implemented to protect workers from COVID-19.
- **Suggest that unvaccinated customers, visitors, and guests wear face coverings.** This is especially important in public-facing workplaces such as retail establishments if there are unvaccinated or otherwise at-risk workers who are likely to interact with customers, visitors, or guests. OSHA recommends posting notices even if masking is no longer required in the workplace's jurisdiction.
- **Maintain ventilation systems.** Review CDC and OSHA guidance on measures that can be implemented to improve ventilation.
- **Perform routine cleaning and disinfection.** If someone has been in the workplace and is suspected of having or confirmed to have COVID-19, follow CDC cleaning and disinfection recommendations.
- **Record and report COVID-19 infections and deaths.** Under the mandatory OSHA rules codified in 29 C.F.R. 1904, employers must record work-related cases of COVID-19 illness in certain circumstances. OSHA will not enforce this standard to require employers to record worker side effects from COVID-19 vaccination through May 2022 in an effort to avoid discouraging or disincentivizing employers' vaccination efforts.
- **Implement protections from retaliation and set up a process for workers to anonymously voice concerns about COVID-19-related hazards.** Remember that employees who raise concerns about COVID-19 are protected from discharge and discrimination under Section 11(c) of the OSH Act.



STATE OF MAINE
MAINE REVENUE SERVICES
P.O. BOX 1060
AUGUSTA, MAINE
04332-1060

ADMINISTRATIVE & FINANCIAL SERVICES

KIRSTEN LC FIGUEROA
COMMISSIONER

MAINE REVENUE SERVICES

JEROME D. GERARD
EXECUTIVE DIRECTOR

Dear Maine Taxpayers and Tax Practitioners:

In order to improve and increase the capabilities for taxpayers and practitioners, Maine Revenue Services is excited to announce the Maine Tax Portal. The Maine Tax Portal will provide improved functionality and access for Maine people – and integrate *all* taxes administered by Maine Revenue Services into a new, single online system.

Once implemented this fall and over the next several years, the Maine Tax Portal will enable online filing for all tax types administered by Maine Revenue Services. Additionally, the Maine Tax Portal will allow taxpayers and practitioners to make online payments, view bills and notices, and perform account maintenance activities, such as, adding or removing addresses and closing an account. Depending on access level, authorized representatives may view submissions, letters, messages, and submit payments and returns on a taxpayer's behalf.

Beginning in October 2021, the Maine Tax Portal will gradually replace current online services. The first tax type rollouts include State of Maine:

- Corporate Income Tax
- Franchise Tax
- Insurance Premiums Taxes (including Fire and Non-Admitted Premiums)
- Estate Tax
- Health Care Provider Tax
- Blueberry, Potato, Mahogany Quahog, and Railroad Excise Taxes
- Marijuana Excise Tax

The rollout schedule for all other tax types is available at www.Maine.gov/revenue/portal.

During the transition and beyond, Maine Revenue Services will continue to support those who elect to file paper returns, make payments by check, or correspond with us via the U.S. Postal Service mail. We will also continue to support Modernized E-File (MeF).

Account setup instructions for the Maine Tax Portal will be published over the coming months. Please watch your inbox or visit www.Maine.gov/revenue/portal. Any questions about the Maine Tax Portal can be submitted via email to taxpayerassist@maine.gov with "Portal" in the subject line.

We thank you for your patience as we replace our decades-old systems – and we look forward to serving you through the Maine Tax Portal.

Sincerely,

Jerome D. Gerard